

# **EXHIBIT 3**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION**

KARLEISHA GAMBLE, individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

CHARTSWAP, LLC; CAROLINA  
RADIOLOGY ASSOCIATES, LLC, d/b/a  
CAROLINA RADIOLOGY ASSOCIATES;  
and ACS PRIMARY CARE PHYSICIANS  
SOUTHEAST, P.C.,

Defendants.

Case No. \_\_\_\_\_

**DECLARATION OF NEWTON ROSS  
IN SUPPORT OF DEFENDANT  
CHARTSWAP, LLC'S NOTICE OF  
REMOVAL**

I, Newton Ross, declare pursuant to 28 U.S.C. § 1746:

1. I am over the age of eighteen years and competent to testify regarding the matters contained herein.

2. I am currently employed by Defendant ChartSwap, LLC ("**ChartSwap**") as the Chief Executive Officer.

3. I base this declaration upon my personal knowledge and review of ChartSwap's records kept in the ordinary course of business as well as my review of the Complaint in this case, which has been provided to me by counsel for ChartSwap.

4. I am knowledgeable of ChartSwap's citizenship and its members' citizenships. ChartSwap is a limited liability company, organized and existing under the laws of the State of Delaware. No member of ChartSwap, through all layers of members there may be to either a corporate entity or natural person, is a resident of or domiciled in the State of South Carolina.

5. I am knowledgeable of the volume of requests for copies of medical records

fulfilled by ChartSwap on behalf of South Carolina healthcare facilities with which it contracts (the “**South Carolina Facilities**”) and the fees charged for fulling such requests.

6. I am authorized to make this declaration on behalf of ChartSwap and do so in conjunction with ChartSwap’s Notice of Removal.

7. To the best of ChartSwap’s knowledge based on currently available information, between December 12, 2019, and December 11, 2022, ChartSwap fulfilled in excess of **163,000** requests made to South Carolina Facilities in which an “**Instant Download Fee**” (i.e. an electronic delivery fee) was charged to a South Carolina requester. The total value of these charges exceeds **\$1,370,000**.

8. To the best of ChartSwap’s knowledge based on currently available information, between December 12, 2019, and December 11, 2022, ChartSwap fulfilled in excess of **7,400** requests made to South Carolina Facilities in which a “**Retrieval Fee**” was charged to a South Carolina requester. The total value of these charges exceeds **\$77,000**.

9. To the best of ChartSwap’s knowledge based on currently available information, between December 12, 2019, and December 11, 2022, ChartSwap fulfilled in excess of **4,000** requests made to South Carolina Facilities in which a “**Certification Fee**” was charged to a South Carolina requester. The total value of these charges exceeds **\$41,000**.

10. To the best of ChartSwap’s knowledge based on currently available information, between December 12, 2019, and December 11, 2022, ChartSwap fulfilled in excess of **400** requests made to South Carolina Facilities in which a “**Expedited Processing Fee**” was charged to a South Carolina requester. The total value of these charges exceeds **\$8,000**.

11. As of June 23, 2014, South Carolina’s Physicians’ Patient Records Act, S.C. Code § 44-115-80, was amended to, among other things, set distinct per-page fees and clerical fees for

searching and handling permissible for providing a copy of a medical record in paper format and providing an electronic copy of a medical record maintained by the healthcare facility in electronic format.

12. To the best of ChartSwap’s knowledge based on currently available information, between December 12, 2019, and December 11, 2022, ChartSwap fulfilled in excess of **114,000** requests made to South Carolina Facilities in which a “**Per Page Fee**” was charged to a South Carolina requester. The total value of these charges exceeds **\$326,000**.

13. To the best of ChartSwap’s knowledge based on currently available information, between December 12, 2019, and December 11, 2022, ChartSwap fulfilled in excess of **129,000** requests made to South Carolina Facilities in which a “**Search and Handling Fee**” was charged to a South Carolina requester. The total value of these charges exceeds **\$2,969,000**.

14. To the best of ChartSwap’s knowledge based on currently available information, between December 12, 2019, and December 11, 2022, the combined value of the above listed charges exceeds **\$4,790,000**.

15. Additionally, if examined on an annual basis—i.e. the period from between December 12, 2019, through December 11, 2020, to December 12, 2020, through December 11, 2021, to December 12, 2021, through December 11, 2022—the combined value of each year-long period increases on a year-over-year basis. In other words, the total value of charges is increasing from year-to-year over the last three years.

[SIGNATURE PAGE FOLLOWS]

On this day, January 9, 2023, I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read 'Newton Ross', is written over a horizontal line.

Newton Ross  
Chief Executive Officer  
ChartSwap, LLC